

Clyde Independent School District of Callahan County, Texas, in order to aid said school district in rebuilding its properties, and equipping its schools destroyed by the cyclone or tornado which struck the community of Clyde on June 10, 1938; making an appropriation to said district for said purposes and for the maintenance of its schools; and declaring an emergency."

Referred to Committee on Finance.

### Adjournment

Senator Hardin moved that the Senate adjourn until 10:00 o'clock a. m. Monday, June 12, 1939.

Yeas and nays were demanded, and the motion prevailed by the following vote:

#### Yeas—17

Burns	Pace
Cotten	Redditt
Graves	Shivers
Hardin	Small
Isbell	Stone
Kelley	of Washington
Lemens	Van Zandt
Moffett	Weinert
Moore	Winfield

#### Nays—10

Aikin	Metcalf
Brownlee	Spears
Collie	Stone
Head	of Galveston
Hill	Sulak
Lanning	

#### Absent

Beck	Roberts
Martin	

#### Absent—Excused

Nelson

The Senate, accordingly, at 3:30 o'clock p. m., adjourned until 10:00 o'clock a. m. Monday, June 12, 1939.

### EIGHTY-FOURTH DAY

(Monday, June 12, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Graves	Spears
Hardin	Stone
Head	of Galveston
Hill	Stone
Isbell	of Washington
Kelley	Sulak
Lanning	Van Zandt
Martin	Weinert
Metcalf	Winfield

#### Absent—Excused

Lemens	Nelson
Moffett	

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 8, 1939, was dispensed with and the Journal was approved.

#### Leaves of Absence Granted

Senator Lemens was granted leave of absence for today on account of important business, on motion of Senator Cotten.

Senator Moffett was granted leave of absence for this morning, on account of illness in his family, on motion of Senator Metcalf.

Senator Nelson was granted leave of absence for today on account of important business, on motion of Senator Stone of Galveston.

#### Report of Standing Committee

Senator Brownlee submitted the following report of the Committee on Highways and Motor Traffic.

Austin, Texas,  
June 7, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

H. B. No. 545, A bill to be entitled "An Act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the

use within the State of Texas of liquefied gases and other liquid fuels as defined herein; to prescribe the manner and time of paying such tax and the duties of officials and others respecting such payment and collection; to provide for the licensing of users as defined herein; to fix a time when such tax and interest and penalties thereon become a lien upon the property of persons, firms, associations, or corporations, subject to the payment of such tax and to provide for the enforcement of said lien; to provide for certain exemptions and for the disposition of the proceeds of such tax; and to provide penalties for the violation of the provisions herein; and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BROWNLEE, Chairman.

**Report of Conference Committee on  
Senate Bill 33**

Senator Redditt submitted the following report of the conference committee on S. B. No. 33:

Austin, Texas,  
May 25, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and House on Senate Bill No. 33, have had the same under consideration, and beg leave to report it back to the Senate and House with the recommendation that said Senate Bill No. 33 be adopted in the form hereto attached.

Respectfully submitted,

COTTEN,  
SHIVERS,  
PACE,  
BURNS,  
REDDITT,

On the part of the Senate.

DAVIS of Jasper,  
Chairman,  
LOCK,  
BOND,  
FERGUSON,  
ALSUP,

On the part of the House.

By Redditt.

S. B. No. 33.

**A BILL  
TO BE ENTITLED**

An Act to require all purchasers of trees and timber in the form of logs or pulp wood, to obtain a bill of sale therefor from the seller; providing for payment of notarial and filing fees; providing that all purchasers of staves or cross ties not securing a bill of sale or deed to same from the seller shall file a verified statement with the County Clerk of the county in which the land from which said staves or cross ties were cut is situated, containing number and description of said staves or cross ties; providing that the provisions of this Act shall not apply to the sale of finished lumber, cedar staves, posts, or wood; providing what shall be contained in such bill of sale; providing penalties for violation of this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Every person, firm, partnership or corporation shall require, before purchasing any trees or timber in the form of logs or pulp wood, a bill of sale therefor to be executed and acknowledged by the seller, in the manner required by law for registration thereof, and such bill of sale shall contain the name and address of such seller and purchaser, a description of the survey or tract of land from which such logs or pulp wood were cut, the number of logs or pulp wood, and the markings, if any, thereon; provided, further that any notarial, filing fees, or other expenses in connection with such Bill of Sale, shall be assumed and paid by the purchaser; provided, however, that a purchaser of staves or cross ties not securing a Bill of Sale or deed to same shall on or before the tenth day of each succeeding month from date of purchase file with the County Clerk of the county in which the land from which said staves or cross ties were cut, is situated, a verified statement containing among other things the name and address of the seller and purchaser, a description of the survey or tract of land from which such staves or cross ties, or any of them, were cut, the number of staves or cross ties and the markings, if any, thereon

contained, which verified statement shall be kept by the County Clerk as a record for public inspection for a period of not less than two years, and for which a filing fee not exceeding ten cents shall be charged. The provisions of this Act shall not apply to the sale of finished lumber or cedar staves, nor shall the same apply to wood or posts.

Sec. 2. Every seller and purchaser who fails to see that such bill of sale as above provided for is given in any such sale, or any purchaser not securing a bill of sale who fails to file the statement as provided for hereinabove, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not to exceed One Hundred (\$100.00) Dollars, or imprisonment of not more than thirty (30) days in jail in the county jail, or both.

Sec. 3. The fact that there is no such law in the State requiring persons dealing in logs or pulp wood to secure a bill of sale before making purchases, and the further fact that certain abuses have grown up in this connection, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### Senate Bill on First Reading

Senator Metcalfe moved that the legislative rule relative to the introduction of bills after the first 60 days of the Regular Session of the Legislature be suspended, to permit his introducing at this time a general bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lanning
Beck	Martin
Brownlee	Metcalfe
Burns	Moore
Collie	Pace
Cotten	Redditt
Graves	Roberts
Hardin	Shivers
Head	Small
Hill	Spears
Isbell	Stone
Kelley	of Galveston

Stone	Van Zandt
of Washington	Weiner
Sulak	Winfield

Absent—Excused

Lemens	Nelson
Moffett	

The following bill then was introduced, read first time, and referred to the committee indicated:

By Senator Metcalfe:

S. B. No. 493, A bill to be entitled "An Act amending Section 17A of Chapter 126 of the Acts of the Regular Session of the Forty-fourth Legislature, as amended by Senate Bill 21, the same being Chapter 505 of the Acts of the Third Called Session of the Forty-fourth Legislature; and declaring an emergency."

Referred to Committee on Mining, Irrigation and Drainage.

#### House Bill and Concurrent Resolutions on First Reading

The following bill and resolutions, heretofore received from the House, were laid before the Senate, read severally first time, and referred to the committees indicated:

H. B. No. 567, to Committee on Civil Jurisprudence.

H. C. R. No. 175, to Committee on Towns and City Corporations.

H. C. R. No. 145, to Committee on Highways and Motor Traffic.

#### Conferees on House Bill 72

The President announced the appointment of the following conferees on H. B. No. 72 on the part of the Senate: Senators Roberts, Lemens, Moore, Kelley and Weinert.

#### Report of Conference Committee on House Bill 132

Senator Van Zandt called for the further consideration at this time of the report of the Conference Committee on H. B. No. 132.

The President laid the report before the Senate, with motion by Senator Burns to re-commit the report, with certain instructions, to the conference committee pending.

Question—Shall the motion of Senator Burns prevail?

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—11

Beck	Head
Brownlee	Hill
Burns	Lanning
Collie	Spears
Cotten	Sulak
Hardin	

## Nays—13

Aikin	Stone
Graves	of Galveston
Isbell	Stone
Martin	of Washington
Moore	Van Zandt
Pace	Weinert
Redditt	Winfield
Small	

## Absent

Kelley	Roberts
Metcalf	Shivers

## Absent—Excused

Lemens	Nelson
Moffett	

Question recurring on the report, it was adopted by the following vote:

## Yeas—16

Aikin	Redditt
Collie	Small
Cotten	Stone
Hill	of Galveston
Isbell	Stone
Lanning	of Washington
Martin	Van Zandt
Moore	Weinert
Pace	Winfield

## Nays—7

Brownlee	Head
Burns	Spears
Graves	Sulak
Hardin	

## Absent

Beck	Roberts
Kelley	Shivers
Metcalf	

## Absent—Excused

Lemens	Nelson
Moffett	

## Reasons for Votes

We voted against the adoption of the Free Conference report on H. B. No. 132 for the reason that this law sets up a racket among the influence peddlers by allowing them to charge each aged person a fee of Ten (\$10.00)

Dollars even though said influence peddler may do nothing but take the applicant to the Old Age Assistance Commission's office. Personally, we don't think any fee should be authorized under the law. These unfortunate people who are dependent upon the State for assistance should be aided and assisted by the employees of the Old Age Assistance Commission who are paid by the State. Should one or more of these unfortunate persons receive treatment which might be termed unfair, then the Senator or House Member from the aggrieved person's district should and would be willing to aid and assist in every possible way without compensation.

Furthermore, this bill allows one to enrich himself or herself upon poverty, and should not be tolerated nor permitted.

SPEARS,  
LEMENS,  
HARDIN,  
WINFIELD,  
GRAVES.

## House Concurrent Resolution 186

The following resolution, heretofore received from the House, was laid before the Senate:

H. C. R. No. 186, Relating to enforcement of law limiting gross weight of motor vehicles.

The resolution was read.

Senator Lanning moved that the resolution be considered immediately.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

## Yeas—11

Aikin	Martin
Brownlee	Metcalf
Burns	Moore
Graves	Redditt
Hill	Sulak
Lanning	

## Nays—10

Collie	Spears
Cotten	Stone
Hardin	of Galveston
Head	Stone
Pace	of Washington
Small	Winfield

## Present—Not Voting

Weinert

## Absent

Beck	Roberts
Isbell	Shivers
Kelley	Van Zandt

## Absent—Excused

Lemens	Nelson
Moffett	

The resolution then was referred by the President to the Committee on Highways and Motor Traffic.

**Committee Substitute for House  
Bill 912**

**(Special Order)**

The President laid before the Senate, as a special order for this hour, on its second reading and passage to third reading:

C. S. for H. B. No. 912, A bill to be entitled "An Act further regulating the sale, transportation, storage, manufacturing, etc., of alcoholic beverages in this State under the Texas Liquor Control Act, etc., and declaring an emergency."

The bill was read second time.

Senator Small offered the following amendment to the bill:

Amend C. S. for H. B. No. 912 by striking out all below the enacting clause and inserting the following:

Section 1. That subsection (d) of Section 3, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 1 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be in all things repealed.

Sec. 2. That Section 41, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as hereafter to read as follows:

"Section 41. Any person who violates any provision of Article I or of Article II of this Act, for which a specific penalty is not provided, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1000), or by imprisonment in the county jail for

not more than one year, or by both such fine and imprisonment. The term 'specific penalty' as used in this section means and refers only to a penalty which might be imposed as a result of a criminal prosecution."

Sec. 3. That Section 26, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 50 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, as further amended by Section 20 of Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended so as hereafter to read as follows:

"Section 26. Any person who violates any provision of this Article shall be guilty of a misdemeanor and the punishment for any such offense shall be as prescribed by Section 41, Article I, of this Act.

"It is provided, however, that in cases where the Administrator or the Board in writing recommends acceptance of a plea of guilty, and such plea is accepted, the decree of the Court and assessment of penalty shall not require cancellation of a license as provided in Section 19 (p) of this Article, but shall leave the question of cancellation of license in such cases to the discretion of the Board or Administrator, having in mind the purposes of this Act."

Sec. 4. That Section 11, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended by the addition of a new section designated as (10), and reading as follows:

"(10). It is hereby declared that the provisions of this section are required to be applied only to applicants who are newly engaging in the liquor business, or who have allowed previous permits or licenses to expire without renewing the same, or whose permits or licenses have been cancelled under any authority contained in this Act. As to those applicants seeking renewal of any expired permits, the Board shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this section."

Sec. 5. That subdivisions (6) and (12), Section 12, Article I, Chapter 467, Acts of the Second Called Ses-

sion of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

"(6). That the place or manner in which permittee conducts his business is of such a nature which, based on the general welfare, health, peace, morals and safety of the people and on the public sense of decency warrants the cancellation or suspension of the permit."

"(12). Where the word 'permittee' is used in (1), (2), (3), (5), (6), (8), (10), and (11) of this Section, it shall also mean and include any agent, servant, or employee, and each member of a partnership or association, and each officer, and the owner or owners of the majority of the corporate stock of a corporation."

Sec. 6. Amend Sections 15 (b), 15 (c), 17, 32, 33, 35, 37, 38 and 39, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature and Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, so as to hereafter read as follows:

"Section 15 (b). All permit fees levied by this Act except Wine and Beer Retailer's Permits issued to other than railway dining, buffet, or club cars shall be paid in advance for one year unless such fees be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in this State. No refund of permit fees shall for any reason be made by the Board, except when the permittee is prevented from continuing in business by reason of the result of a local option election, or upon the rejection of an application for a permit by the Board or Administrator. So much of the proceeds derived from permit fees under the provisions of this Article as may be necessary are

hereby appropriated for that purpose."

"Section 15 (c). (1). All permits provided for in Article I of this Act, except Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board. Notice of all applications filed with the Board except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Bonded Warehouse, and Storage Permits shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such notice shall be given by the Board. Each application shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer."

"(2). No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator showing such applicant is not disqualified from holding a permit under this Act. Such application shall be accompanied by proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of this Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board."

"(3). In the event any person holding a permit under the terms of this Article desires to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original application may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

"Sec. 17. (1). It shall be unlawful for any person holding a package store permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof; provided, that it shall

not be unlawful for a person holding a wine only package store permit to also hold a Beer Retail Dealer's off-premise License.

"(2). It shall be unlawful for any person to hold an interest in more than five (5) package stores or the business thereof. It shall further be unlawful for any person to hold or have an interest in more than five (5) package store permits.

"(3). It shall be unlawful for any person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesale, winery, or wine bottler, either within or without this State, or any agent, servant, or employee of either of them:

"(a). To own or have an interest, directly or indirectly, in the business, premises, equipment, or fixtures of any retail liquor dealer;

"(b). To furnish, give, or lend any money, service, or other thing of value, or to extend unusual credit terms to any retailer, or to any person for the use, benefit or relief of such retailer, or to guarantee the fulfillment of any financial obligation of any retailer;

"(c). To make or enter, or offer to enter, into an agreement, condition or system, the effect of which will amount to the shipment and delivery of alcoholic beverages on consignment;

"(d). To furnish, give, rent, lend, or sell to any retail dealer any equipment, fixtures, or supplies to be used in the selling or dispensing of alcoholic beverages;

"(e). To pay or make any allowances to any retailer for a special advertising or distribution service, or to allow any excessive discounts;

"(f). To offer any prize, premium, gift, or other similar inducement to any retailer or consumer, or the agent, servant, or employee of either;

"(g). To solicit or take orders for, or to deliver or sell any liquor conditioned on any promise made or offered, or any act done in violation of Subsections (e) and (f) of this Section;

"(4). It shall be unlawful for any person operating under a permit under Article I of this Act to refuse to allow the Board, or any authorized representative of the Board, or any peace officer, upon request to make a full inspection, investigation or search of any licensed premises or vehicle.

"(5). It shall be unlawful for any

person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting, or dispensing any liquor.

"(6). It shall be unlawful for any person who holds a permit under Article I of this Act to contribute any money or other thing of value toward the campaign expenses of any candidate for any office in this State.

"(7). It shall be unlawful for any person to possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of container, whereon the State tax stamp has not been mutilated or defaced.

"(8). It shall be unlawful for any person to break or open any container containing liquor, or to possess such opened container of liquor on the premises of a package store.

"(9). It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken on the premises of a package store.

"(10). It shall be unlawful for any person to fail or refuse to comply with any requirement of this Act or with any valid rule and regulation of the Board.

"(11). It shall be unlawful for any person, directly or indirectly, to be interested in, connected with, or be a party to a consignment sale as herein defined.

"(12). It shall be unlawful for any person to have in his possession, to transport, manufacture or sell any illicit beverage.

"(13). It shall be unlawful for any person to import, sell, offer for sale, barter, exchange, or possess for the purpose of sale any liquor in containers of less than one-half pint; provided, however, that six (6) ounce containers shall be the minimum sized container for malt or vinous liquors.

"(14). It shall be unlawful for any person to have curtains, hangings, signs, or any other obstruction which prevents a clear view of the interior of any package store; provided, however, that this shall not apply to a drug store which holds a package store permit so as to prevent the display of drug merchandise.

"(15). It shall be unlawful for any person to sell or offer to sell any alcoholic beverage that shall have

been authorized by any permit or license held by him after notice of cancellation or suspension of such permit or license by the Board or Administrator shall have been given.

"(16). It shall be unlawful for any carrier to import into this State and deliver any liquor to any person not authorized to import the same, or to transport and deliver liquor to any person in a dry area in this State, unless the same be for a lawful purpose as provided by this Act.

"(17). It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverages made from dried grapes, dried fruits, and dried berries, or any compounds made from synthetic materials, substandard wines or from must concentrated at any time to more than Eighty Degrees (80) Balling.

"(18). It shall be unlawful for any person to import or to transport into this State from any place outside the State any liquor in containers to which have not been affixed proper State tax stamps consigned to, intended for delivery to, or being transported to any person or place located within the State Boundaries, unless the same shall be consigned to the holder of a wholesaler's permit authorizing the sale of such liquor and at his place of business.

"(19). It shall be unlawful for any person to use, display, or to exercise any privilege granted by a permit except at the place, address, premises, or location for which the permit is granted.

"(20). It shall be unlawful for any person to consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued."

"Sec. 32. The Commissioners' Court of each county in the State upon its own motion may order an election wherein the qualified voters of any county or of any justice precinct or incorporated town or city may by the exercise of local option determine whether or not the sale of alcoholic beverages or one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated town or city; and local option elections shall be called by the Commissioners' Court upon proper petition as herein provided. Upon the application of any one or more qualified voters of any

county, justice precinct, or incorporated town or city, the County Clerk of such county shall issue to the applicant or applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct or incorporated town or city. The petition so issued shall clearly state the issue or issues to be voted upon in such election; each such petition shall show the date of its issue by the County Clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the County Clerk. The County Clerk shall deliver as many copies of said petition as may be required by the applicant and each copy shall bear the date, number and seal on each page as required in the original. The County Clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within One Hundred and Twenty (120) days after the date of issue be filed with the Clerk of the Commissioners' Court bearing the actual signatures of as many as thirty per cent (30%) of the qualified voters in any such county, justice precinct, incorporated town or city, together with a notation showing the voting precinct wherein each of the said signers resides, taking the votes for Governor at the last preceding General Election as the basis for determining the qualified voters in any such county or political subdivision, it is hereby required that the Commissioners' Court at its next regular session shall order a local option election to be held upon the issue or issues set out in such petition. It shall be the duty of the County Clerk to check the names of the signers of any such petition and the voting precincts in which they reside to determine whether or not the signers of such petition are in fact qualified voters of the county or political subdivision at the time such petition is presented, and to certify to the Commissioners' Court the number of qualified voters signing such petition. No signature shall be counted where



there is reason to believe that it is not the actual signature of the purported signer. The minutes of the Commissioners' Court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. No subsequent election upon the same issue in the same political subdivision shall be held within two (2) years from the date of the preceding local option election in any county or political subdivision thereof."

"Sec. 33. When the Commissioners' Court shall order an election as herein provided for, it shall be the duty of said Court to order such election to be held at the voting places within such county or subdivision thereof, upon a day not less than thirty (30) nor more than sixty (60) days from the date of said order, and the order thus made shall state the issue or issues to be voted upon in such election, and said order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with; provided that such Court shall appoint such officers to hold such elections as are now required to hold general elections."

"Sec. 35. (a). At said election the vote shall be by official ballot which shall have printed or written thereon at the top thereof in plain letters the word 'Official Ballot,' Said ballot shall have also written or printed thereon the issue or issues appropriate to the election order as provided in Section 40 of this Act, and the Clerk of the Court shall furnish the presiding officer of each voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter, and each person offering to vote at each election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such

presiding officer when requested to do so by such voter.

"(b). In elections to legalize the sale of alcoholic beverages those in favor of such legalization shall erase the words 'Against legalizing the sale of, etc.' by making a pencil mark through same; and those who oppose such legalization shall erase the words 'For legalizing the sale of, etc.,' by making a pencil mark through same.

"In elections to prohibit the sale of alcoholic beverages those who favor such prohibition shall erase the words 'Against prohibiting the sale of, etc.' by making a pencil mark through same; and those who oppose such prohibition shall erase the words 'For prohibiting the sale of, etc.' by making a pencil mark through same. No ballot shall be received or counted by the officers at such elections that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act."

"Sec. 37. Said Court shall hold a special session on the fifty day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue 'For prohibiting the sale, etc.' or 'Against legalizing the sale, etc.' as to any alcoholic beverages of the various types and alcoholic content, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof."

"Sec. 38. The order of said Court declaring the result and prohibiting the sale of any and all types of alcoholic beverages shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the elec-

tion was held, which fact shall be entered by the County Judge on the minutes of the Commissioners' Court. An entry thus made or a copy thereof certified under the hand and seal of the Clerk of the Court shall be prima facie evidence of such posting."

"Sec. 39. If a majority voting at such election favor the issue 'For legalizing the sale, etc.,' or 'Against prohibiting the sale, etc.,' as to any alcoholic beverages of the various types and alcoholic content, the Court shall make an order declaring the results and have the same entered of record in the office of the Clerk of said Court, whereupon it shall be lawful in such political subdivision to manufacture, sell or distribute such type or types of alcoholic beverages as may be favored in the election in accordance with the terms of this Act, until such time as the qualified voters therein may thereafter, at a legal election held for that purpose by a majority vote, decide otherwise, and the order thus made shall be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the County Clerk within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin."

Sec. 7. That subsection (d) of Section 45, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as to read as follows:

"(d). Refunds for liquor stamps may be made by the Board from the revenue derived from the sale of such stamps before the same has been allocated, and so much of such funds as may be necessary is hereby appropriated for that purpose. A refund may be made by the Board in all cases where stamped liquor is returned to the distillery or manufacturer upon certification by an inspector of the Board who inspected the shipment. The Board may also make a refund to any person who was authorized to purchase stamps and who is in possession of unused liquor stamps upon discontinuation of business. In either instance it must be shown that the stamps for which

a refund is asked were purchased from the State Treasurer. No other refunds for liquor stamps shall be allowed."

Sec. 8. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be amended by adding thereto a new section known as Section 43, which shall read as follows:

"Sec. 43. No permit or license applied for under the terms of this Act may be issued to any person upon an application, either for an original license or permit, or for any license or permit sought to be transferred from another location, where the premises for which the permit or license is sought is licensed under any permit or license against which an order of suspension by the Board or Administrator is pending or unexpired, or against which existing permit or license the Board has initiated action to cancel or suspend."

Sec. 9. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended by adding thereto a new section to be known as Section 43 (a), to read as follows:

"Sec. 43 (a). When the terms 'citizen of Texas' and 'citizen of this State' are used in this Act they shall mean not only citizenship in Texas, as required by this Act, but shall also require citizenship in the United States."

Sec. 10. That subsection (f), Section 3, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 50, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

"(f). Branch License: The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a branch license for each such place of business as herein provided. Any Branch License issued under the provisions of this Section shall terminate at the same time as the primary license of such licensee. The annual State fee for a Branch License shall be Fifty Dollars (\$50.00); provided, however, that the fee for any license required to termi-

nate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Four Dollars and Twenty-five Cents (\$4.25) for each month or fraction thereof for which the license is issued.

"To obtain a Branch License the applicant therefor shall present the primary license secured in the county of his residence to the Assessor and Collector of Taxes in the county in which the application is filed together with the fee herein provided, and it shall be the duty forthwith of such Assessor and Collector of Taxes to certify to the Texas Liquor Control Board that such application has been made and the required fees paid, and such other information as the Board may require; and upon receiving such certificate and report from the assessor and Collector of Taxes it shall be the duty of the Board or Administrator to issue the Branch License accordingly.

"If, by local option election, the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it further being provided that any such Manufacturer or Distributor may, upon the expiration of any such Branch License, immediately thereafter obtain, in any county wherein a Branch License has been held, a primary Manufacturer's or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought."

Sec. 11. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by the addition of a new section to be designated as Section 5-a inserted immediately following Section 5 of said Article, said new Section 5-a to read as follows:

"Section 5-a. The restrictions as to residence in the county in which a retail dealer's license is applied for shall not be applicable to any retail dealer as may have qualified by law and obtained a retail dealer's license in the county of his residence, when such retail dealer also seeks to obtain a retail dealer's license in any other county."

Sec. 12. That subsections (a), (d) and (e), Section 7, Article II, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature and Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

"(a). Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. When it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county of the Licensee's residence not more than thirty (30) days nor less than five (5) days prior to the date of expiration of the license held by him. Such application for renewal shall be signed by the applicant and contain full and complete information required of the applicant by the Board showing such applicant is not disqualified from holding a license under this Act, and applicant shall pay to the Assessor and Collector of Texas the appropriate license fee for the class of license sought to be renewed. The Assessor and Collector of Texas shall thereupon transmit to the Board a copy of said application for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the copy of said application and certification as to the payment of fees, the Board or Administrator may in its discretion issue the license applied for, or may within five (5) days after receipt of such application reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for the primary or original license. Any applicant for renewal when such renewal is rejected by the Board or Administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal."

"(d). No license issued under the provisions of this Article shall be as-

signed by the holder thereof to any person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by applying upon a form prescribed by the Board to the County Judge and receiving his consent or approval, but further providing that the County Judge or the Board or Administrator may deny such application for change in the place of business for any cause for which an original application may be denied. Any such application may be subject to protest and hearing as thought it were an original application. No additional license fees for the remaining unexpired term of the license shall be required of the applicant for change of location.

"(e). No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as otherwise provided in this Article."

Sec. 13. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by the addition of a new section to be designated as Section 10½ A, inserted immediately following Section 10½, said new Section 10½ A to read as follows:

"Section 10½ A. All incorporated cities and towns are hereby authorized in adopting charter amendments or ordinances to distinguish between retailers selling beer for consumption on the premises where sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations."

Sec. 14. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by the addition of a new section to be designated as Section 19 (a) inserted immediately following Section 19 of said Article, said Section 19 (a) to read as follows:

"Section 19 (a). As to any causes for cancellation of licenses herein provided, in lieu of such cancellation, the Board or Administrator shall have the discretionary power and authority to suspend any such license for a period not to exceed sixty days."

Sec. 15. That Section 23, Article II, Chapter 467, Acts of the Second

Called Session of the Forty-fourth Legislature, as amended by Section 50 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended by the addition of a new subsection (n) to read as follows:

"(n). All funds derived from the sale of beer tax stamps shall be allocated to the use and benefit of the Old Age Assistance Fund of the State of Texas."

Sec. 16. That the repeal or amendment of any section or any portion of a section of the Texas Liquor Control Act by the enactment of this bill shall not affect or impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such repeal or amendment shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents as if such section, or part thereof, so repealed or amended had remained in force, except that where the course of practice or procedure for the enforcement of such right, or the conducting of such proceeding, suit, or prosecution shall be changed, the same shall be conducted as near as may be in accordance with this Act. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior statute, or part thereof, had not been repealed or amended, except that where the mode of procedure or matters of practice have been changed by this Act, the procedure had after this Act shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with this Act.

Sec. 17. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in either Article I or II of this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Sec. 18. The fact that the present law is inadequate to deal with many phases of liquor control, and the further fact that there exists some conditions requiring immediate correction in the public interest, create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each House be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the amendment be adopted?

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 60, Requesting the withdrawal of Senate Bill No. 462 from the Governor's office.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

#### Bills and Resolution Signed

The President signed, in the presence of the Senate, the following enrolled bills and resolutions:

S. B. No. 481, "An Act authorizing and directing the Board of Control and the Governor to execute an easement conveying to the County of Upshur right-of-way necessary for the construction of a county road across the lands of the Texas State Colored Orphanage in Upshur County, said lands being described by metes and bounds; and authorizing and directing the Board of Control and the Governor to execute an easement conveying to the State Highway Department right-of-way necessary for the construction of State Highway No. 155 across the lands of the Texas State Colored Orphanage in Upshur County, said lands being described by metes and bounds; describing procedure to be followed in each instance; and declaring an emergency."

S. B. No. 11, "An Act making an appropriation for the 'Pease River Flood Control District'; designating who shall have authority to execute vouchers; limiting the purposes for which the money may be spent; and declaring an emergency."

S. B. No. 200, "An Act defining bedding to include mattresses, pillows, bolsters, feather beds, etc.; requiring the labelling of bedding as to whether new or second-hand materials are used; prohibiting the use of materials from dump-grounds, junk yards and hospitals; requiring the germicidal treatment of second-hand materials; authorizing the State Board of Health with enforcement; requiring permits for manufacture, repair or renovation and application of germicidal process; the payment of fees for permits; providing for the issuance of adhesive stamps and registration for selling bedding; providing that proceeds be placed in special Bedding Sanitation Fund for use in administration of Act; providing a penalty; requiring bedding manufacturers or renovators to keep premises sanitary; excepting all bedding manufactured, repaired, renovated and/or sold prior to effective date; providing that if any part of this Act shall be declared unconstitutional, it shall not affect any other part thereof, and declaring an emergency."

S. C. R. No. 60, Recalling S. B. No. 462 from the Governor for correction.

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

H. C. R. No. 157, Urging the Government of the United States to make use of cotton twine instead of jute twine.

H. C. R. No. 162, Granting A. C. Peterson permission and authority to present his claim to the Compensation Claim Board.

H. C. R. No. 180, Authorizing the State Highway Department of Texas to give to the School Board of Prairie Point Common School District No. 10 of Montague County sufficient quantities of discarded guard wire for purposes as set out.

Respectfully submitted,  
E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Concurrent Resolutions Referred

The following resolutions, received from the House today, were laid before the Senate, read severally first time, and referred to the committees indicated:

H. C. R. No. 162, to Committee on State Affairs.

H. C. R. No. 157, to Committee on Agriculture.

H. C. R. No. 180, to Committee on Highways and Motor Traffic.

#### Reports of Conference Committees on House Bills 255 and 256

Senator Roberts submitted the following reports of the conference committee on H. B. No. 255 and the conference committee on H. B. No. 256:

Austin, Texas,  
June 8, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Hon. Coke R. Stevenson, President of the Senate.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on House Bill No. 255, have had the same under consideration and beg to report back with the recommendation that it do pass in the form hereto attached.

Respectfully submitted,  
ROBERTS,  
METCALFE,  
STONE of Washington,  
LANNING,  
WEINERT,

On the part of the Senate.

THORNTON,  
McDONALD,  
HEFLIN,  
LONDON,  
HANKAMER,

On the part of the House.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 256, beg leave to report that we have had the same under consideration and recommend that the bill do pass in the form and text attached hereto.

Respectfully submitted,

ROBERTS,  
WINFIELD,  
LEMENS,  
MOFFETT,  
BURNS,

On the part of the Senate.

THORNBERRY,  
SMITH of Matagorda,  
CAUTHORN,  
TENNANT,  
THORNBERRY,

On the part of the House.

On motion of Senator Roberts and by unanimous consent, it was ordered that the bills attached to the foregoing reports be not printed in the Journal.

#### Recess

On motion of Senator Hardin, the Senate, at 12:00 o'clock m, took recess to 2:00 o'clock p. m. today.

#### Afternoon Session

The Senate met at 2:00 o'clock p. m. and was called to order by the President Pro Tempore.

#### At Ease

On motion of Senator Aikin, the Senate stood at east subject to the call of the Chair.

The President Pro Tempore called the Senate to order at 2:05 o'clock p. m.

#### Senate Concurrent Resolution 61

Senator Pace, by unanimous consent, offered at this time the following resolution:

Be it Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the Regular Session of the Forty-sixth Legislature of the State of Texas do stand adjourned sine die on Wednesday, June 21st, 1939, at 12 o'clock noon.

This resolution is conditioned that it be adopted by the House of Representatives not later than 1:00 p. m., Tuesday, June 13th, 1939. Otherwise this resolution shall be null and void.

The resolution was read.

Question—Shall the resolution be adopted?

Yeas and nays were demanded, and the resolution was adopted by the following vote:

Yeas—19

Aikin	Pace
Beck	Redditt
Burns	Roberts
Collie	Small
Cotten	Stone
Graves	of Galveston
Head	Stone
Isbell	of Washington
Martin	Van Zandt
Moffett	Winfield
Moore	

Nays—5

Brownlee	Metcalf
Kelley	Spears
Lanning	

Absent

Hardin	Sulak
Hill	Weinert
Shivers	

Absent—Excused

Lemens	Nelson
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House Bill 723 on Passage to Third Reading

On motion of Senator Head and by unanimous consent, the regular order of business was suspended to permit further consideration of H. B. No. 723 at this time.

The President Pro Tempore laid before the Senate on its passage to third reading (the bill having been read second time on June 5, 1939):

H. B. No. 723, A bill to be entitled "An Act making appropriations to pay miscellaneous claims out of the General Fund; providing that before payment of any claim shall be paid

from funds hereby appropriated the same shall have the approval of the State Comptroller, the State Auditor, and the Attorney General, and provided further that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials herein named, and declaring an emergency."

With an amendment offered by Senator Head on June 5, 1939, [shown on pp. 1907-1916 of the Journal] pending.

The amendment was adopted.

The bill was passed to third reading.

House Bill 723 on Third Reading

Senator Head moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 723 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Moore
Beck	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Graves	Spears
Hardin	Stone
Head	of Galveston
Hill	Stone
Isbell	of Washington
Kelley	Sulak
Lanning	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

Absent—Excused

Lemens	Nelson
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The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Aikin, Moore and Moffett asked to be recorded as voting "nay" on the passage of the bill.

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 12, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. B. No. 1104, and requests the Senate for the appointment of a Free Conference Committee to adjust the differences between the two Houses. The following are appointed as conferees on the part of the House: Boethel, Bundy, Celaya, Winfree, Isaacks.

The House has concurred in Senate amendments to H. B. No. 526 by a viva voce vote.

The House has concurred in Senate amendments to H. B. No. 943 by a vote of 114 yeas, 7 nays.

The House has concurred in Senate amendments to H. B. No. 1050 by a vote of 124 yeas, 1 nay.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

#### Senate Resolution 85

On motion of Senator Brownlee and by unanimous consent, the regular order of business was suspended, to permit consideration of S. R. No. 85 at this time.

The President Pro Tempore laid before the Senate for consideration at this time the following resolution:

Resolved, by the Senate of the State of Texas, That the Secretary thereof be, and he is hereby, authorized to remove the old flags in the Senate Chamber and purchase new flags in place thereof, and to place said flags in the positions hereinabove indicated; and that payment for such flags be made out of the contingent expense fund of the Senate of the State of Texas on warrants drawn and authorized as is now provided, for the payment of other expenses of the Senate, and it is so resolved.

The resolution was read and was adopted.

#### Committee Substitute for House Bill 912 on Passage to Third Reading

(Special Order)

The Senate resumed consideration of the pending special order, same

being C. S. for H. B. No. 912, on its passage to third reading, with amendment by Senator Small pending.

Question—Shall the amendment be adopted?

Senator Stone of Galveston offered the following amendment to the amendment:

Amend the Small substitute for H. B. No. 912 by striking out the following words from the sixth line of subsection (d) of Section 12 thereof: "or the Board or Administrator."

The amendment to the amendment was adopted.

Senator Van Zandt offered the following amendment to the amendment:

Amend Section 6 of the pending substitute for H. B. No. 912, by inserting at the proper place a new section, 32a of Article 2, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as subsequently amended, to read as follows:

Section 32-a. In any county in this State where the sale of one or more types of alcoholic beverages therein is lawful or may hereafter be legalized by county-wide vote, it shall nevertheless be lawful to prohibit under the provisions of this Act the sale of one or more of such types in any justice precinct or incorporated city or town of such county. When any county in this State shall have prohibited the sale of one or more types of alcoholic beverages therein, said prohibition shall be in force in all parts of the county, except within the limits of any justice precinct or incorporated city or town within such county which may legalize under the provisions of this Act the sale therein of one or more of such types of alcoholic beverages.

The enactment of this provision shall not affect the existing wet or dry status heretofore established for any area under the laws of this State, except as such status may hereafter be changed under the procedure provided in this Act.

The amendment to the amendment was adopted.

#### Record of Votes

Senators Redditt, Collie, Hill and Lemens asked to be recorded as vot-



ing "nay" on the amendment to the amendment.

Senator Aikin moved to reconsider the vote by which the amendment to the amendment was adopted.

Senator Van Zandt moved to table the motion to reconsider.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—16

Brownlee	Spears
Graves	Stone
Hardin	of Galveston
Head	Stone
Kelley	of Washington
Martin	Sulak
Metcalfe	Van Zandt
Moore	Weinert
Shivers	Winfield

Nays—12

Aikin	Lanning
Burns	Lemens
Collie	Moffett
Cotten	Pace
Hill	Redditt
Isbell	Small

Absent

Beck	Roberts
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Absent—Excused

Nelson

Senator Martin offered the following amendment to the amendment:

Amend H. B. No. 912 by adding immediately after Section 19 (a) another section to be known as Section 19 (b), which shall amend Section 19, subsection (b), Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, and which shall hereafter read as follows:

"(b). Sold beer to any person showing evidence of intoxication, providing there is a bona fide complaint filed in a court of competent jurisdiction against the person alleged to be intoxicated; and provided further that if and when said person alleged to be intoxicated is tried and is acquitted, then any cancellation by reason of a violation of this subsection by the holder of a license hereunder shall be set aside."

The amendment to the amendment was adopted.

Question—Shall the amendment as amended be adopted?

Reports of Standing Committees

By unanimous consent, the following reports were submitted at this time:

Austin, Texas,  
June 10, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 493, A bill to be entitled "An Act amending Section 17A of Chapter 126 of the Acts of the Regular Session of the Forty-fourth Legislature, as amended by Senate Bill 21, the same being Chapter 505, of the Acts of the Third Called Session of the Forty-fourth Legislature; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PACE, Chairman.

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 492 by Collie, A bill to be entitled "An Act providing relief for the Clyde Independent School District of Callahan County, Texas, in order to aid said School District in rebuilding its properties, and equipping its schools destroyed by the cyclone or tornado which struck the community of Clyde on June 10, 1938; making an appropriation to said District for said purposes and for the maintenance of its schools; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended, and be not printed.

ROBERTS, Chairman.

Austin, Texas,  
June 11, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 1130, A bill to be entitled "An Act releasing all penalty and

interest accrued on ad valorem city and independent school district taxes which were delinquent on July 1, 1938, in all cities in this State having a population of not less than one hundred thousand (100,000) nor more than one hundred twenty thousand (120,000) by the last preceding Federal Census, and in which the city council shall by proper resolution so determine, etc.; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

MOORE, Chairman.

#### Senate Bill 492 on Second Reading

On motion of Senator Collie and by unanimous consent, the regular order of business was suspended to permit consideration of S. B. No. 492 at this time.

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 492, A bill to be entitled "An Act providing relief for the Clyde Independent School District of Callahan County, Texas, in order to aid said school district in rebuilding its properties, and equipping its schools destroyed by the cyclone or tornado which struck the community of Clyde on June 10, 1938; making an appropriation to said district for said purposes and for the maintenance of its schools; and declaring an emergency."

The bill was read second time.

Senator Collie offered the following (committee) amendment to the bill:

Amend S. B. No. 492 by adding a new section to be known as Section 1a, to read as follows:

Section 1a. Said money herein appropriated shall be paid out of the General Revenue Fund of the State of Texas not otherwise appropriated, and shall be paid on warrants of the Comptroller, upon submission of sworn accounts as needed, and as the construction and repairing of the building and property progresses, and the equipment is bought.

The amendment was adopted.

The bill was passed to engrossment.

#### Senate Bill 492 on Third Reading

Senator Collie moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 492 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Moffett
Beck	Moore
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield

Absent—Excused

Nelson

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—23

Aikin	Moffett
Burns	Moore
Collie	Pace
Graves	Redditt
Hardin	Shivers
Head	Small
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Stone
Lemens	of Washington
Martin	Winfield
Metcalf	

Nays—5

Brownlee	Van Zandt
Cotten	Weinert
Sulak	

Absent

Beck	Roberts
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Absent—Excused

Nelson

### Report of Conference Committee on House Bill 257

Senator Roberts, by unanimous consent, submitted at this time the following report of the Conference Committee on H. B. No. 257:

Austin, Texas,  
May 31, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on House Bill No. 257, have had the same under consideration and beg to report back with the recommendation that it do pass in the form hereto attached.

Respectfully submitted,

ROBERTS,  
BROWNEE,  
KELLEY,  
SMALL,

On the part of the Senate.

THORNTON,  
VALE,  
SCHUENEMANN,  
SMITH of Hopkins,  
BAKER of Ft. Bend,

On the part of the House.

On motion of Senator Roberts and by unanimous consent, it was ordered that the bill attached to the report be not printed in the Journal.

### Report of Conference Committee on Senate Bill 427

Senator Roberts, by unanimous consent, submitted at this time the following report of the Conference Committee on Senate Bill 427:

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on Senate Bill No. 427, have had the same under consideration and beg to report back with the recom-

mendation that it do pass in the form hereto attached.

Respectfully submitted,

ROBERTS,  
WEINERT,  
BECK,  
AIKIN,  
REDDITT,

On the part of the Senate.

THORNTON,  
HULL,  
ALSUP,  
WOOD,  
REED,

On the part of the House.

On motion of Senator Roberts, it was ordered that the report and bill accompanying it be printed in full as a supplement to today's Journal.

### Executive Session

On motion of Senator Shivers, and by unanimous consent, the Senate, at 3:45 o'clock p. m., agreed to hold an executive session immediately to consider nominations of the Governor.

The Sergeant-at-Arms was directed to clear the floor and galleries of all those not entitled to attend the executive session, and to close all doors leading from the Senate Chamber.

### After Executive Session

At the conclusion of the executive session, the Secretary of the Senate reported to the Journal Clerk that the Senate had adopted the following reports:

Austin, Texas,  
June 7, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Members of the State Board of Public Accountancy (terms beginning January 17, 1939):

J. B. Allred of Wichita Falls, Wichita County (re-appointment),

Clifton H. Morris of Fort Worth, Tarrant County,

O. H. Maschek of Beaumont, Jefferson County,

H. V. Robertson of Amarillo, Potter County,

Frank G. Rogers of San Antonio, Bexar County,

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Notaries Public:

Rogers F. Reid, Beaumont, Texas, and others.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,  
June 7, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Members of the State Board of Dental Examiners (Term beginning June 10, 1939):

Dr. R. T. Weber of Austin, Travis County (re-appointment),

Dr. M. F. Webster of Dallas, Dallas County,

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

The President Pro Tempore called the Senate to order as in legislative session at 3:55 o'clock p. m.

#### Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

H. B. No. 1130, A bill to be entitled "An Act to amend Section 1 of House Bill No. 196, passed by the Regular Session of the Forty-sixth Legislature, and declaring an emergency."

H. C. R. No. 188, Authorizing the Enrolling Clerk to make certain changes in H. B. No. 387.

H. C. R. No. 192, In memory of the Honorable Richard W. Mayfield.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Concurrent Resolution 188

The following resolution received from the House today, was laid before the Senate:

H. C. R. No. 188, Providing for making certain corrections in H. B. No. 387.

The resolution was read; and on motion of Senator Aikin and by unanimous consent, it was considered immediately.

The resolution was adopted.

#### House Bill on First Reading

The following bill received from the House today, was laid before the Senate, read first time, and referred to the committee indicated:

H. B. No. 1130, to Committee on Game and Fish.

#### Adjournment

Senator Pace moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

The motion prevailed; and the Senate, accordingly, at 4:00 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

#### APPENDIX

#### Reports of Committees on Engrossed and Enrolled Bills

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 489 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: We, your Committee on En-  
grossed Bills, have had S. B. No. 486  
carefully examined, compared and  
read and find same correctly en-  
grossed.

LANNING, Chairman.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: We, your Committee on En-  
grossed Bills, have had S. B. No. 320  
carefully examined, compared and  
read, and find same correctly en-  
grossed.

LANNING, Chairman.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: We, your Committee on En-  
grossed Bills, have had S. B. No. 490  
carefully examined, compared and  
read, and find same correctly en-  
grossed.

LANNING, Chairman.

Austin, Texas,  
June 12, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: We, your Committee on En-  
grossed Bills, have had S. C. R. No.  
61 carefully examined, compared and  
read, and find same correctly en-  
grossed.

LANNING, Chairman.

Austin, Texas,  
June 8, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: We, your Committee on En-  
rolled Bills, have had S. B. No. 481  
carefully examined, compared and  
read and find same correctly enrolled.

STONE of Galveston, Chairman.

## In Memory of Hon. Richard W. Mayfield

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The following resolution, received from the House today, was laid before the Senate:

(House Concurrent Resolution 192)

Whereas, On the 10th day of June, 1939, our Almighty God in His superior judgment, which we mortals can little understand, called from our earthly ranks the great soul of the late Richard W. Mayfield, of Giddings, Texas, at the age of sixty-five years, and he answered that call as gallantly and preparedly as he had always answered every other call in life; and

Whereas, Mr. Mayfield received his early education from the North Texas State Normal College of Denton, Texas, graduating from this institution in 1900. After teaching school in Texas for several years he moved to Giddings, Texas, in the year of 1906, where he studied law under Judge I. H. Bowers. He was admitted to the bar in 1908, practicing law in Giddings from 1908 to 1918, at which time he was elected District Attorney of the Twenty-first Judicial District. He served as District Attorney from 1918 to 1920, at which time he returned to the practice of law in the city of Giddings, where he has continued his law practice up to the present time. He was a son of Dr. I. N. Mayfield of Giddings; and

Whereas, Honorable Richard W. Mayfield had served his State in many valuable ways, giving much of his life to that of public service. His ability and energy made him one of the most outstanding leaders in public welfare. In addition to his success as an attorney and private citizen, he generously contributed his time and talent to humanitarian interest and welfare of his fellow citizens. By his innumerable good deeds, Richard W. Mayfield shall enjoy the immortality that is imperishable and the contributions of good deeds of Richard W. Mayfield to both the community and State shall keep his memory ever aglow, meriting him the highest honor and ovation this State can pay; therefore, be it

Resolved by the House of Representatives, the Senate concurring, That a copy of this Resolution be spread on the memorial pages of the Senate and House Journal of the day to acknowledge their loyalty and esteem to this great and good soul, Mr. Richard W. Mayfield, and also; be it further

Resolved, That the Chief Clerk of the House of Representatives and the Secretary of the Senate send the family of the deceased a copy of this Resolution under their respective seals and that, when the Senate and the House adjourn today, they do so in silent tribute to a man whose name shall live long in the consciousness of his State and in the affection of his friends and sorrowing family.

The resolution was read; and on motion of Senator Stone of Washington and by unanimous consent, it was considered immediately and was adopted unanimously.